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6 Attorneys for Defendant
GOOGLE INC.

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION

12 OVERTURE SERVICES, INC., a Delaware
corporation,

13 Plaintiff,

14 v.

15 GOOGLE INC., a California corporation,

16 Defendant.

Case No. C 02-01991 CRB (EDL)

**DECLARATION OF MICHAEL S. KWUN
IN SUPPORT OF GOOGLE'S REPLY TO
OVERTURE'S FURTHER OPPOSITION
TO MOTION FOR AN ORDER
EXTENDING TIME TO SERVE INITIAL
INVALIDITY CONTENTIONS**

17 Date: December 18, 2002
Time: 3:00 p.m.
18 Dept: Courtroom E, 15th Floor
Judge: Hon. Elizabeth D. Laporte

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20 I, Michael S. Kwun, declare as follows:

21 1. I am an associate at the law firm of Keker & Van Nest, LLP, counsel of record for
22 defendant Google Inc. ("Google") in the above-captioned matter. I make this declaration in
23 support of Google's Reply to Plaintiff Overture Services, Inc.'s ("Overture's") Further
24 Opposition to Motion for an Order Extending Google's Time to Serve Initial Invalidity
25 Contentions. I make the following declaration based upon my personal knowledge, and could
26 and would testify thereto under oath if called upon to do so.

27 2. I am familiar with the written discovery that has been propounded by both parties
28 in this case, as well as the responses the parties have served to that discovery. I am also familiar

1 with the documents the parties have produced in discovery, and the discussions that the parties
2 have had about discovery in this case.

3 3. Overture served its Patent L.R. 3-1 Disclosure of Asserted Claims and
4 Preliminary Infringement Contentions (hereinafter, "Preliminary Infringement Contentions") on
5 September 16, 2002.

6 4. Google produced approximately 60,000 pages of documents responsive to
7 Overture's first set of document requests on October 11, 2002.

8 5. Overture has not served Google with an amended, modified, or supplemental
9 version of its Preliminary Infringement Contentions since serving its original Preliminary
10 Infringement Contentions.

11 6. Overture's responses to Google's first set of document requests were originally
12 due on October 23, 2002. Google agreed to extend Overture's time to serve written responses to
13 those requests to November 6, 2002. As of today, Overture has not produced any documents in
14 responses to Google's first set of document requests. (Overture has produced the documents it
15 identified in its Patent L.R. 3-2 disclosure.)

16 7. Attached hereto as Exhibit A is a true and correct copy of a letter sent on or about
17 October 8, 2002 by counsel for Overture to counsel for Google.

18 8. Exhibits B through H to this declaration, described in more detail below, are true
19 and correct copies of documents produced by Overture as part of its patent L.R. 3-2 disclosure.
20 Each of these documents has been identified by Overture as being part of the prosecution history
21 of the 361 patent.

22 9. Attached hereto as Exhibit B is a true and correct copy of the Petition and Motion
23 Under 37 C.F.R. § 1.102(d) to Make Application Special that Overture submitted to the PTO on
24 or about October 22, 1999, during the prosecution of the application for the 361 patent.

25 10. Attached hereto as Exhibit C is a true and correct copy of the Declaration in
26 Support of Petition and Motion Under 37 C.F.R. § 1.102(d) to Make Application Special
27 (without the exhibits that were originally attached to the declaration) that Overture submitted to
28 the PTO on or about October 22, 1999, during the prosecution of the application for the 361

1 patent. The declarant was Darren J. Davis, one of the named inventors in the 361 patent.

2 Hereinafter, I refer to this declaration as the "Davis declaration."

3 11. Attached hereto as Exhibit D is a true and correct copy of the "screen shot" that
4 was attached as Exhibit 4 to the Davis declaration.

5 12. Attached hereto as Exhibit E is a true and correct copy of the "screen shot" that
6 was attached as Exhibit 5 to the Davis declaration.

7 13. Attached hereto as Exhibit F is a true and correct copy of the "screen shot" that
8 was attached as Exhibit 11 to the Davis declaration.

9 14. Attached hereto as Exhibit G is a true and correct copy of the "screen shot" that
10 was attached as Exhibit 17 to the Davis declaration.

11 15. Attached hereto as Exhibit H is a true and correct copy of the "screen shot" that
12 was attached as Exhibit 23 to the Davis declaration.

13 16. Attached hereto as Exhibit I is a true and correct copy of a print-out of a Google
14 web search result page. This copy has been annotated with boxes, arrows, and text labels to
15 indicate three different types of results.

16 I declare under penalty of perjury under the laws of the United States of America that the
17 foregoing is true and correct. Executed on this 12th day of December 2002 at San Francisco,
18 California.

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20
21 /s/ Michael S. Kwun
22 MICHAEL S. KWUN
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